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Attorneys for Plaintiff, James Gregory Nunley

(SPACE BELOW FOR FILING STAMP ONLY)

**FILED**  
TULARE COUNTY SUPERIOR COURT  
JUDICIAL BRANCH

OCT 09 2019

STEPHANIE CRITCHER, CLERK  
BY: *[Signature]*

Assigned to Judicial Officer **MELINDA M. REED**  
For All Purposes  
**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF TULARE**

JAMES GREGORY NUNLEY, an individual,  
  
Plaintiff,  
  
v.  
  
CITY OF TULARE, and Does 1 through 25, inclusive,  
  
Defendants.

Case Number **280739**  
**COMPLAINT FOR DAMAGES:**  
**(1) Defamation; (2) Slander Per Se; (3) Intentional Interference with Prospective Economic Advantage; (4) Negligent Interference with Economic Relationship**

**[JURY TRIAL DEMANDED]**

CASE MANAGEMENT CONFERENCE

Hearing Date: 2-19-20  
Time: 8:30am  
Department: 1

Plaintiff hereby alleges and complains as follows:

I.

**PARTIES**

1. Plaintiff James Gregory Nunley ("PLAINTIFF") is a an individual and real estate developer who lives in the City and County of Tulare and operates a number of businesses in the City of Tulare.

2. Defendant City of Tulare ("CITY") is a municipal corporation in the State of California.

3. Defendants DOE 1 through DOE 10 (hereinafter "DOES") are sued herein under fictitious names. Their true names and capacities are unknown to PLAINTIFF. When their true names and capacities are ascertained, PLAINTIFF will amend this complaint by inserting their true

1 names and capacities herein. PLAINTIFF is informed and believes and thereon alleges that each of  
2 the fictitiously named defendants are responsible in some manner for the occurrence herein alleged  
3 and that PLAINTIFF's damages as herein alleged were proximately caused by DOES 1 through 10.

4 4. PLAINTIFF is informed and believes and thereon alleges that at all times herein  
5 mentioned, DOES 1-10 were the agents, servants, and employees of their co-defendants and in doing  
6 the things hereinafter alleged were acting in the scope of their authority as agents, servants, and  
7 employees, and with the permission and consent of their co-defendants.

8 **II.**

9 **CLAIM EXHAUSTION**

10 5. On or about March 19, 2019 PLAINTIFF duly presented to Defendant CITY a claim  
11 in the amount of \$16,500,000.00 for the damages sought herein.

12 6. On or about April 18, 2019, Defendant CITY rejected the claim in its entirety.

13 7. PLAINTIFF has exhausted the claim requirement and this action is timely.

14 **III.**

15 **FACTS COMMON TO ALL CLAIMS**

16 8. PLAINTIFF has been a real estate developer in the City of Tulare for several years,  
17 and worked cooperatively with the City of Tulare in addressing the ever-growing needs of the City  
18 for single family homes and commercial real estate development. PLAINTIFF is an owner of and/or  
19 principal in several companies that construct residential homes, and develops commercial property  
20 in the City. PLAINTIFF has developed a good reputation for himself and his business enterprises.

21 9. PLAINTIFF has been doing business as a general contractor and real estate developer  
22 in the City of Tulare for almost fifteen years and he and his business enterprises have earned A+  
23 Better Business Bureau ratings and accomplishments recognizing his/its good reputation in the City  
24 of Tulare.

25 10. PLAINTIFF is informed and believes and thereon alleges that, for unknown reasons,  
26 Defendant CITY has developed ill will towards PLAINTIFF and his business activities and has taken  
27 actions with the intent to cause harm to his business enterprises and reputation. PLAINTIFF is  
28 informed and believes and thereon alleges that Defendant CITY, through its agents and employees,

1 has deliberately developed and implemented a scheme to improperly and wrongfully make FALSE  
2 and deliberately harmful statements about PLAINTIFF and his business enterprises, including but  
3 not limited to his interactions with the City of Tulare regarding real estate development projects.  
4 PLAINTIFF is informed and believes and thereon alleges that Defendant CITY's scheme included  
5 not only false statements about PLAINTIFF and his business enterprises' activities with Defendant  
6 CITY but also included imposing the implementation and discriminatory procedures on PLAINTIFF  
7 and his business enterprises in his/its real estate development activities and that were intended to be  
8 costly and burdensome for PLAINTIFF and his business enterprise in his/its real estate development  
9 activities. This scheme was developed and implemented with the specific intent to cause  
10 PLAINTIFF harm and to interfere and impair PLAINTIFF from being on a level playing field with  
11 other similarly situated real estate developers. PLAINTIFF is further informed and believes and  
12 thereon alleges that Defendant CITY, through its agents and employees, devised and implemented  
13 this scheme to discriminate against PLAINTIFF and his business enterprises in a manner that was  
14 unfair and gave other similarly situated real estate developers an unfair advantage over PLAINTIFF  
15 in their real estate development activities.

16 11. PLAINTIFF is informed and believes that on this basis the CITY has, through its  
17 actions and inactions, and acting through its authorized representatives or otherwise ratifying the  
18 actions of its representatives, engaged in a course of conduct designed to and has improperly  
19 interfered with PLAINTIFF's business activities and otherwise caused him and his businesses to  
20 suffer substantial injury and economic damages, and damages to their reputations.

21 12. PLAINTIFF is informed and believes and thereon alleges that the CITY's activities  
22 include, but are not limited to, deliberately and with the intent to cause him harm and damages to  
23 PLAINTIFF, the following:

24 Publishing, or allowing to be published, false statements about  
25 PLAINTIFF and his businesses failing to timely pay the fees that  
were in fact not due to the CITY;

26 Publishing, or allowing to be published, false statements about  
27 PLAINTIFF and his businesses failing to submit proper paperwork in  
28 connection with its/their development/construction activities in a  
manner that impaired the CITY's rights or abilities to receive fees  
allegedly owed to the CITY;

1 Altering or fabricating documentation for the purpose of allowing the  
2 same to be used to falsely create the impression that PLAINTIFF and  
3 his businesses had failed to timely pay the fees that were in fact not  
4 due to the CITY;

5 Altering or fabricating documentation for the purpose of allowing the  
6 same to be used to falsely create the impression that PLAINTIFF and  
7 his businesses had failed to submit proper paperwork in connection  
8 with its/their development/construction activities in a manner that  
9 impaired The CITY's rights or abilities to receive fees allegedly owed  
10 to the CITY;

11 Deliberately applying inconsistent and unfair standards and scrutiny  
12 to his projects and building activities, and otherwise discriminating  
13 against PLAINTIFF and his businesses, in a manner that has caused  
14 substantial economic damages;

15 Forcing and/or requiring PLAINTIFF and his businesses to do  
16 additional work, and/or modifications to work and/or projects that  
17 were unnecessary and/or inconsistent with similar work performed by  
18 other contractors and/or developers;

19 Forcing and/or requiring PLAINTIFF and his businesses to do  
20 additional work, and/or modifications to work and/or projects that  
21 were unnecessary and/or inconsistent with plans or prior agreements  
22 made by the CITY confirming that such additional work was not  
23 required.

24 The delaying PLAINTIFF's projects with the intent to cause  
25 PLAINTIFF to incur additional unnecessary costs and expenses, and  
26 create difficulties for PLAINTIFF in his dealings with his business  
27 clients and associates.

28 Informing PLAINTIFF's potential business clients and associates that  
they would be better served working with other developers, other than  
PLAINTIFF, because the CITY did not support PLAINTIFF and  
would not approve or otherwise cause delays in PLAINTIFF's  
proposed development projects.

## FIRST CAUSE OF ACTION

### (Defamation)

13. PLAINTIFF hereby incorporates by reference the allegations of paragraphs 1 through  
12 as though fully set forth herein.

14. PLAINTIFF, who previously enjoyed a good reputation in the City of Tulare and the  
community, was defamed by Defendant CITY's assertions that include but are not limited to:

Publishing, or allowing to be published, false statements about  
PLAINTIFF and his businesses failing to timely pay the fees that  
were in fact not due to the CITY;

1 Publishing, or allowing to be published, false statements about  
2 PLAINTIFF and his businesses failing to submit proper paperwork in  
3 connection with its/their development/construction activities in a  
manner that impaired the CITY's rights or abilities to receive fees  
allegedly owed to the CITY.

4 15. PLAINTIFF is informed and believes, and based thereon alleges that such statements  
5 carried a defamatory meaning because the statements impugned the integrity of PLAINTIFF and his  
6 business enterprises that were intended to and did disrupt his relations with existing and prospective  
7 clients and future business opportunities.

8 16. PLAINTIFF is informed and believes, and based thereon alleges that such statements  
9 were defamatory and false because PLAINTIFF had timely paid the fees to the CITY when due and  
10 submitted proper paperwork for the development/construction activities and did not impair the  
11 CITY's rights or abilities to receive fees when due and owing to the CITY.

12 17. PLAINTIFF is informed and believes, and based thereon alleges that such statements  
13 were heard and understood by members of the public to be defamatory because the CITY's  
14 statements were intentionally derogatory about PLAINTIFF and his business enterprises.

15 18. PLAINTIFF is informed and believes, and based thereon alleges that Defendant  
16 CITY's false statements were defamatory in the context of real estate developers need to properly  
17 interact with the City of Tulare in connection with commercial land development and/or home-  
18 building construction. Defendant CITY's statements were intended to and were, in fact, understood  
19 by members of the public as impugning the professionalism and integrity of PLAINTIFF and his  
20 business enterprises.

21 19. As a direct and legal result of Defendant CITY's publication of false assertions,  
22 PLAINTIFF has suffered damages to his business activities and otherwise caused him and his  
23 businesses to suffer substantial injury and economic damages, and damages to their reputations in  
24 an amount in excess of the jurisdictional minimum limits of this Court, the exact amount of which  
25 shall be established at the time of trial.

26 20. Defendant CITY's statements were made with malice and/or oppression and/or fraud  
27 because PLAINTIFF had timely made payment to Defendant CITY of any sums when due and owing

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1 and properly submitted paperwork when doing owing to Defendant CITY, therefore, an award of  
2 exemplary and punitive damages is justified.

### 3 SECOND CAUSE OF ACTION

#### 4 (Slander Per Se Based on Tendency to Injure Occupation [Civ. Code § 46(3)])

5 21. PLAINTIFF hereby incorporates by reference the allegations of paragraphs 1 through  
6 12 and 14-18 as though fully set forth herein.

7 22. PLAINTIFF, who previously enjoyed a good reputation in the City of Tulare and the  
8 community, was defamed by Defendant CITY's assertions that include but are not limited to:

9 Publishing, or allowing to be published, false statements about  
10 PLAINTIFF and his businesses failing to timely pay the fees that  
were in fact not due to the CITY;

11 Publishing, or allowing to be published, false statements about  
12 PLAINTIFF and his businesses failing to submit proper paperwork in  
13 connection with its/their development/construction activities in a  
manner that impaired the CITY's rights or abilities to receive fees  
allegedly owed to the CITY.

14 23. PLAINTIFF is informed and believes and thereon alleges that Defendant CITY's  
15 statements were slanderous per se because they tend to injure PLAINTIFF in his profession as a real  
16 estate developer by imputing to him a general lack of integrity and compliance with Defendant  
17 CITY's procedures relating to real estate development in the City of Tulare that has a natural  
18 tendency to, and did lessen the profits of the PLAINTIFF and his business enterprises

19 24. As a direct and proximate result of the CITY's false statements PLAINTIFF and his  
20 business enterprises have suffered economic damages to his/its business activities and otherwise  
21 caused him and his businesses to suffer substantial injury and economic damages, and damages to  
22 their reputations in an amount to be proven at trial in an amount in excess of the jurisdictional  
23 minimum limits of this Court, the exact amount of which shall be established at the time of trial.

24 25. Defendant CITY's statements were made with malice and/or oppression and/or fraud  
25 because PLAINTIFF had timely made payment to Defendant CITY of any sums when due and owing  
26 and properly submitted paperwork when doing owing to Defendant CITY, therefore, an award of  
27 exemplary and punitive damages is justified.

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### THIRD CAUSE OF ACTION

#### (Intentional Interference with Prospective Economic Advantage)

26. PLAINTIFF hereby incorporates by reference the allegations of paragraphs 1 through 25 as though fully set forth herein.

27. Based on his long-history of real estate development and general contracting services in the City of Tulare, PLAINTIFF and his business enterprises, at all relevant times hereto, had economic relationships with third parties that contained probable future economic benefits to PLAINTIFF in relation to his business enterprises as a real estate developer.

28. PLAINTIFF is informed and believes, and based thereon alleges that Defendant CITY knew that PLAINTIFF had existing and future economic relationships as a real estate developer based on his long-standing successful businesses in the city of Tulare. PLAINTIFF is informed and believes and thereon alleges that Defendant CITY knew PLAINTIFF and his business enterprises had economic relationships with, among others, Arnel Koster, JA Contracting, John Moons and John Bayrakarian relating to real estate development in the City of Tulare.

29. PLAINTIFF is informed and believes, and based thereon alleges that Defendant CITY acted intentionally and willfully in a manner designed to disrupt PLAINTIFF's existing and future economic relationships.

30. PLAINTIFF is informed and believes, and based thereon alleges that Defendant CITY's actions were wrongful and consisted of false representations including, but not limited to:

Publishing, or allowing to be published, false statements about PLAINTIFF and his businesses failing to timely pay the fees that were in fact not due to The CITY;

Publishing, or allowing to be published, false statements about PLAINTIFF and his businesses failing to submit proper paperwork in connection with its/their development/construction activities in a manner that impaired The CITY's rights or abilities to receive fees allegedly owed to The CITY;

Altering or fabricating documentation for the purpose of allowing the same to be used to falsely create the impression that PLAINTIFF and his businesses had failed to timely pay the fees that were in fact not due to The CITY;

Altering or fabricating documentation for the purpose of allowing the same to be used to falsely create the impression that PLAINTIFF and

1 his businesses had failed to submit proper paperwork in connection  
2 with its/their development/construction activities in a manner that  
3 impaired The CITY's rights or abilities to receive fees allegedly owed  
4 to The CITY;

5 Deliberately applying inconsistent and unfair standards and scrutiny  
6 to his projects and building activities, and otherwise discriminating  
7 against PLAINTIFF and his businesses, in a manner that has caused  
8 substantial economic damages;

9 Undertaking actions to delay PLAINTIFF's developments and  
10 projects by, among other things, forcing and/or requiring PLAINTIFF  
11 and his businesses to do additional work, and/or modifications to  
12 work and/or projects that were unnecessary and/or inconsistent with  
13 similar work performed by other contractors and/or developers;

14 Undertaking actions to delay PLAINTIFF's developments and  
15 projects by, among other things, forcing and/or requiring PLAINTIFF  
16 and his businesses to do additional work, and/or modifications to  
17 work and/or projects that were unnecessary and/or inconsistent with  
18 plans or prior agreements made by The CITY confirming that such  
19 additional work was not required.

20 31. PLAINTIFF is informed and believes, and based thereon alleges that Defendant  
21 CITY's actions were wrongful and potentially criminal in connection with the altering of official  
22 records in violation of California Penal Code section 115.3 relating to the dates on records of  
23 inspection of properties being developed by PLAINTIFF and his business enterprises and/or record  
24 keeping practices that were not keeping PLAINTIFF and his business enterprises aware of Defendant  
25 CITY's actions.

26 32. PLAINTIFF is informed and believes and alleges that the activities of the CITY were  
27 intended to and did disrupt his economic relationships with existing and future clients causing him  
28 and his business enterprises to be damaged. PLAINTIFF is informed and believes and thereon  
alleges that Defendant CITY's actions have directly interfered with PLAINTIFF and his business  
enterprises relating to real estate development activities with, among others, Arnel Koster, JA  
Contracting, John Moons and John Bayrakarian relating to real estate development in the City of  
Tulare.

33. As a direct result of Defendant CITY's activities, PLAINTIFF has suffered damages  
to his business activities and otherwise caused him and his businesses to suffer substantial injury and

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1 economic damages, and damages in an amount in excess of the jurisdictional minimum limits of this  
2 Court, the exact amount of which shall be established at the time of trial.

3 34. The acts of Defendant CITY were willful and oppressive or fraudulent or malicious  
4 and PLAINTIFF is therefore entitled to punitive damages.

#### 5 **FOURTH CAUSE OF ACTION**

##### 6 **(Negligent Interference with Economic Relationships)**

7 35. PLAINTIFF hereby incorporates by reference the allegations of paragraphs 1 through  
8 12, 14-18, and 30 as though fully set forth herein.

9 36. Based on his long-history of real estate development and general contracting services  
10 in the City of Tulare, PLAINTIFF and his business enterprises have created business relationships  
11 for development in the City of Tulare.

12 37. PLAINTIFF is informed and believes, and based thereon alleges that Defendant CITY  
13 is aware of PLAINTIFF's good standing and his businesses in the community that allow him to have  
14 economic and business opportunities for development in the City of Tulare. PLAINTIFF is informed  
15 and believes and on this basis alleges that Defendant CITY knew or should have known that false  
16 statements about PLAINTIFF and/or his business enterprises and the ability to interact with  
17 Defendant CITY for real estate developments would cause economic harm and adversely affect  
18 PLAINTIFF and his business enterprises in the City of Tulare. PLAINTIFF is informed and believes  
19 and thereon alleges that Defendant CITY knew PLAINTIFF and his business enterprises had  
20 economic relationships with, among others, Arnel Koster, JA Contracting, John Moons and John  
21 Bayrakarian relating to real estate development in the City of Tulare.

22 38. Plaintiff is informed and believes and on this basis alleges that there was a foreseeable  
23 risk of harm to PLAINTIFF's economic relationship if Defendant CITY made false statements or  
24 other actions that could adversely affect PLAINTIFF and his business enterprises in connection with  
25 real estate development in the City of Tulare.

26 39. PLAINTIFF is informed and believes, and based thereon alleges that Defendant CITY  
27 negligently made statements about PLAINTIFF and his business enterprises that it knew or should  
28 have known were false and took other actions that it knew or should have known would adversely

1 affect PLAINTIFF's and his business enterprises' ability to conduct real estate development  
2 activities in City of Tulare

3 40. As a direct and proximate result of Defendant CITY's negligence, PLAINTIFF and  
4 his business enterprises were impeded in his/its ongoing and future business endeavors relating to  
5 real estate development in the City of Tulare. PLAINTIFF is informed and believes and thereon  
6 alleges that Defendant CITY's actions have directly interfered with PLAINTIFF and his business  
7 enterprises relating to real estate development activities with, among others, Arnel Koster, JA  
8 Contracting, John Moons and John Bayrakarian relating to real estate development in the City of  
9 Tulare.

10 41. As a direct and proximate result of Defendant CITY's actions, PLAINTIFF has  
11 suffered damages to his business activities and otherwise caused him and his businesses to suffer  
12 substantial injury and economic damages ,in an amount in excess of the jurisdictional minimum  
13 limits of this Court, the exact amount of which shall be established at the time of trial.

14 WHEREFORE, PLAINTIFF prays for judgment as against Defendant, and for damages as  
15 follows:

- 16 1. For general, special, economic and consequential damages according to proof;
- 17 2. For punitive damages;
- 18 3. For attorneys' fees and costs;
- 19 4. For pre-judgment interest;
- 20 5. For costs of suit incurred; and
- 21 6. For such other and further relief as this Court may deem just and proper.

22 Dated: October 9, 2019

23 WILKINS, DROLSHAGEN & CZESHINSKI LLP

24  
25 By \_\_\_\_\_

James H. Wilkins

Alyson A. Berg

Attorneys for Plaintiff, James Gregory Nunley

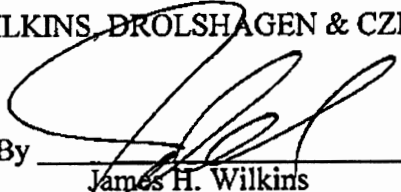
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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: October 9, 2019

WILKINS, DROLSHAGEN & CZESHINSKI LLP



By \_\_\_\_\_

James H. Wilkins

Alyson A. Berg

Attorneys for Plaintiff, James Gregory Nunley